

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

WESTERN REFINING SOUTHWEST, INC.,  
and WESTERN REFINING PIPELINE, LLC,

Plaintiffs,

vs.

Civ. No. 14-804 KG/KK

3.7820 ACRES OF LAND IN MCKINLEY COUNTY,  
NEW MEXICO; et al.,

Defendants.

ORDER CONTINUING STAY

This matter comes before the Court upon the Court's Memorandum Opinion and Order Staying Lawsuit, filed on May 21, 2015, and Plaintiffs' Status Report, filed on May 13, 2016. (Docs. 166 and 169). On May 21, 2015, the Court stayed this lawsuit until the Interior Board of Indian Appeals (IBIA) made its final determination on the appeal underlying this condemnation lawsuit, and the Court ordered that the *status quo* remain in place during the pendency of the stay. (Doc. 166) at 5. The Court also ordered Plaintiffs to "file a status report on the outcome of the IBIA appeal and how the outcome affects this lawsuit, if at all." *Id.* at 6.

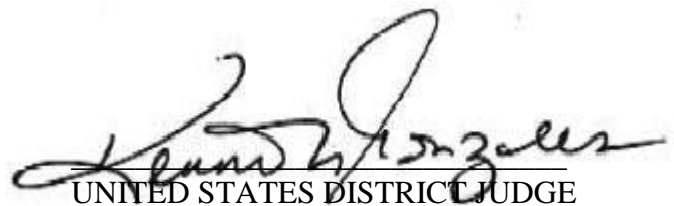
On May 13, 2016, Plaintiffs filed a status report indicating that on May 4, 2016, the IBIA ruled on the appeal and denied Plaintiffs' request for an unqualified 20-year renewal of the right-of-way easement over Allotment No. 2073. Instead, the IBIA held that the right-of-way easement is limited to "the shortest period" of either 20 years, or the remaining lives of life tenants Mary Tom or Tom Morgan. *Western Refining Southwest, Inc., et al. v. Acting Navajo Regional Director, Bureau of Indian Affairs*, 63 IBIA 41, 41-42 (2016). Not satisfied with the

IBIA final determination, Plaintiffs filed a lawsuit in this Court, Civ. No. 16-442 WPL/GBW, seeking to overturn the IBIA determination.

Plaintiffs ask in their Status Report that the Court continue to stay this lawsuit and that the *status quo* be maintained “until judicial review of the IBIA opinion is completed....”<sup>1</sup> (Doc. 169) at 2. Plaintiffs observe that the relief they seek in Civ. No. 16-442 WPL/GBW “will render this condemnation action moot.” *Id.* at 8. The Court agrees with Plaintiffs and for the same reasons stated previously in the May 21, 2015, Memorandum Opinion and Order, the Court will continue the stay and order that the *status quo* continue to be maintained until Civ. No. 16-442 WPL/GBW is finally determined.

IT IS ORDERED that

1. this litigation is stayed until Civ. No. 16-442 WPL/GBW is finally determined;
2. the *status quo* will remain in place during the pendency of this stay; and
3. when Civ. No. 16-442 WPL/GBW is finally determined, Plaintiffs must file a status report on the outcome of that case and how that outcome affects this lawsuit, if at all.



UNITED STATES DISTRICT JUDGE

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<sup>1</sup> The Court notes that none of the Defendants filed an opposition to Plaintiffs’ requests to continue the stay and to maintain the *status quo*.